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**GAMBLING COMMISSION  
COMM & LEGAL DEPT**

**STATE OF WASHINGTON  
GAMBLING COMMISSION**

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In the Matter of the Suspension or )  
Revocation of the Class III Certification to )  
Conduct Gambling Activities of: )

No. CR 2009-00004

**SETTLEMENT ORDER**

David Russell, )  
Bellingham, Washington, )

Class III Employee. )

This Settlement Order is entered into between the Washington State Gambling Commission and the certified employee, David Russell. H. Bruce Marvin, Assistant Attorney General, and Brenda Bono, Staff Attorney represent the Gambling Commission. Mr. Russell is represented by attorney Dave Malone of Miller Malone & Tellefson.

**Regulatory History**

The Washington State Gambling Commission issued David Russell, of Bellingham, the following Class III Employee certification:<sup>1</sup>

- 69-20826, Authorizing Class III Employee Activity, for the Upper Skagit Tribe.

The certification expires on April 5, 2010, and was issued subject to the certified employee's compliance with state gambling laws and rules and the Upper Skagit Tribal-State Compact. Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, Chapter 34.05 RCW, the Administrative Procedure Act, WAC Title 230, and the Upper Skagit Tribal-State Compact.

The following facts and violations were alleged in the Notice of Administrative Charges:

- On December 26, 2008, the certified employee, as manager at the Skagit Valley Casino (Casino), issued a "comp" to a patron, by falsifying a player rating slip to the player's account.
- Managers at the Casino are permitted to provide complimentary meal vouchers to players up to a maximum of 10% of their actual daily loss. On December 26, 2008, Mr. Russell issued an \$18 comp to Kendra Kelly despite her not having played that day, and he falsified a player rating slip to show that she had lost \$200, when in fact she had no losses. The Commission alleges this constitutes fraud.
- Mr. Russell admitted to having issued un-earned comps to Ms. Kelly.

<sup>1</sup> Class III Employee certification is issued to employees working at Tribal Casinos. The certification authorizes similar activities as the Card Room Employee (CRE) license issued to individuals working at commercial house-banked card rooms. By submitting a transfer form and fees, holders of a Class III Certification may convert their certification to a CRE license.

Mr. Russell was initially informed that his tribal gaming license would be revoked. After a hearing on February 11, 2009, Mr. Russell's tribal license was suspended for six months by the Upper Skagit Indian Tribe, for committing fraud and not following the Casino's internal controls, a violation the Upper Skagit Tribal-State Compact. Therefore, grounds exist to suspend David Russell's Class III Certification under RCW 9.46.075(1), WAC 230-03-085(1), RCW 9.46.153, RCW 9.46.190, RCW 9.46.196 and the Upper Skagit Tribal-State Compact.

### **Procedural History**


The Director issued a Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding to the Class III employee, on April 2, 2009. The Class III employee received the Notice, and Commission staff received Mr. Russell's request for a hearing. The hearing was held on August 19, 2009. Administrative Law Judge Terry A. Schuh issued an Initial Order revoking Mr. Russell's Class III Certification on October 21, 2009. The licensee filed a Petition for Review on November 13, 2009. However, prior to the review hearing, the parties reached an agreement. In consideration of Mr. Russell withdrawing his Petition for Review, the Commission agrees to reduce his penalty to a one-year surrender of his certification.

### **Stipulation**

Mr. Russell agrees to stipulate to Findings of Facts numbers 1 – 11 in Judge Schuh's Initial Order (Initial Order) of October 20, 2009. Mr. Russell also agrees to Finding of Fact number 12 of the Initial Order, except for the reference to WAC 230-15-425(2), which the parties agree to strike. Mr. Russell further agrees that if the Administrative Law Judge accepts the parties' stipulation and signs the Order set forth below, he shall withdraw his Petition for Review dated November 13, 2009 and shall waive all rights to appeal the entry of the Order below, including the right to file a motion for reconsideration, and the right to file a petition for judicial review under RCW 34.05.

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Dave Malone  
Miller Malone & Tellefson  
Attorney for David Russell



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H. Bruce Marvin, WSBA# 25152  
Assistant Attorney General,  
Gambling Commission

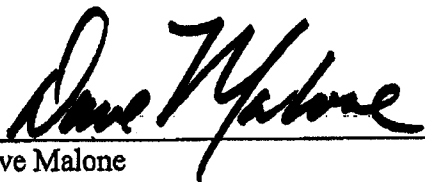
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Dave Malone  
Miller Malone & Tellefson  
Attorney for David Russell

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H. Bruce Marvin, WSBA# 25152  
Assistant Attorney General,  
Gambling Commission

## ORDER

**BASED ON** the foregoing stipulation, the October 20, 2009 Order shall become the final Findings of Fact and Conclusions of Law and are incorporated into this Order by reference. The penalty of revocation set out in the Initial Order shall be modified as follows:

- 1) David Russell's Class III certification shall not be revoked. Mr. Russell shall surrender his certification to the Gambling Commission on January 4, 2010. Mr. Russell shall not hold or reapply to the Commission for a gambling license prior to January 4, 2011.
- 2) In the event Mr. Russell reapplies to the Commission for a gambling license, he will be subject to all the Commission's investigative procedures for processing an application for a gambling license or Class III Certification. Furthermore, no promises or assurances have been made to Mr. Russell that he will receive a license from the Commission should he reapply. However, the Commission shall not base a denial of his license based solely on the facts of this case.
- 3) **The signed Settlement Order must be received by Commission staff on or before December 28, 2009, and mailed to Commission Headquarters at the following address:**

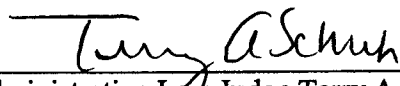
Washington State Gambling Commission  
Attention: Communications and Legal Division  
P.O. Box 42400  
Olympia, WA 98504-2400

**Or delivered** (in person or via private courier) to the following address:

Washington State Gambling Commission  
4565 7<sup>th</sup> Avenue SE; Fourth Floor  
Attention: Communications and Legal Division Lacey, WA 98503

- 4) Mr. Russell shall have no involvement directly or indirectly, whether paid or unpaid, in the operation, ownership, or financing of any business in Washington State which is applying for, or holds, a gambling license or permit from the Commission, including punchboard/pull-tab activity during his one year suspension. However, this does not prevent Mr. Russell from working in any non-gambling activity, such as employment in restaurants located in establishments engaged in authorized gambling activity, nor does this prevent a Tribal Gaming Agency of a sovereign Indian Tribe from licensing Mr. Russell for gaming-related employment in a Class II gaming facility.

DATED this 29th day of December, 2009.

  
Administrative Law Judge Terry A. Schuh

By his signature, the Class III employee  
Understands and accepts the terms  
and conditions of this Order

APPROVED FOR ENTRY:

\_\_\_\_\_  
Dave Malone  
Miller Malone & Tellefson  
Attorney for David Russell

\_\_\_\_\_  
David Russell (Date)

*Michael A. Fend #26792 for*  
\_\_\_\_\_  
Brenda Bono, WSBA# 29956  
Staff Attorney,  
Washington State Gambling Commission


APPROVED AS TO FORM:



\_\_\_\_\_  
H. Bruce Marvin, WSBA# 25152  
Assistant Attorney General,  
Representing the Washington State  
Gambling Commission

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APPROVED FOR ENTRY:

  
Dave Malone  
Miller Malone & Tellefson  
Attorney for David Russell

APPROVED AS TO FORM:

H. Bruce Marvin, WSBA# 25152  
Assistant Attorney General,  
Representing the Washington State  
Gambling Commission

  
David Russell

(Date)

Brenda Bono, WSBA# 29956  
Staff Attorney,  
Washington State Gambling Commission